

REMARKS

The Office Action dated May 19, 2009. Claim 1 has been canceled. Claims 2 and 3 have been added. Claims 2-3 are in this application. No new matter has been added.

The specification has been amended to include headings as suggested by the Examiner.

The previously submitted claims were rejected under 35 U.S.C. § 112 as indefinite. Applicant has amended the claims to meet the guidelines under 35 U.S.C. § 112. Support for the amendments are found throughout the specification and in particular on page 3, lines 5-19 and Fig. 3. No new matter has been entered.

The previously submitted claims were rejected under 35 U.S.C. § 103 as obvious in view of FR 2613232 to Gratellier. Applicant submits that the teachings of this reference do not disclose or suggest the invention defined by the present claims.

Gratellier disclose nasal simulator including cylinder 2. Cylinder 2 includes ring 4 extending around a surface of the cylinder as shown in Fig. 1. A rim 3 is positioned at an end of cylinder 2. In a second embodiment, a pair of cylinders 10 are attached to one another as shown in Fig. 3. A tab 7 extends from one end of the cylinders.

In contrast to the invention defined by the present claims, Gratellier does not teach or suggest a cylinder including a convex widening periphery throughout a central portion of the cylinder at a first portion of the cylinder and a flattened portion at a second portion of the cylinder which faces a nasal septum during use. Rather, Gratellier discloses a thin ring extending around the entire circumference of the cylinder. In the present invention, during use the convex widening periphery 2, is positioned in the area in contact with the wing of the nose for the purpose of moving that area outwards, thereby causing the stretching of the muscle in this area. Applicant submits that the thin ring of Gratellier will not have this effect during use. In addition, in the present invention, the flattened second portion of the cylinder which faces the nasal septum during use is used to prevent injury to the nasal septum. In contrast, Gratellier teaches away from the present invention by teaching a ring which extends entirely around the circumference of the cylinder. Furthermore, the present invention provides a combined effect of the convex area of the cylinder which dilates the nasal passages and stretches the perinasal muscles and the protruding support which extends from the rim that acts as a clip on the

perinasal muscle, thereby increasing their muscular activity and their dilator effect on the nostrils. The stimulating effect of the perinasal muscles leads the nostrils to dilate, which is effective in patients suffering from nasal collapse on inhaling. There is no teaching or suggestion of these features in Gratellier. Accordingly, the invention defined by the present claims is not obvious in view of Gratellier.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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